THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3265 OF 2006

DATED 13th OCTOBER, 2006

BETWEEN

Pillarisetty Narayana Rao and others

… Petitioners

and

The District Collector, Kakinada, East Godavari District and Another.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3265 OF 2006

ORDER:

The first respondent issued notification under Section 4(1) of the Land Acquisition Act, 1894 (the Act, for brevity) and the same was published in East Godavari District Gazette on 02.09.2003. The same was followed by declaration under Section 6 of the Act, which was published in the District Gazette Notification, dated 05.09.2003. The land admeasuring Acs.7.72 cents belong to the petitioners is sought to be acquired by notifications for providing house sites to weaker sections. These notifications are challenged mainly on the ground that the notification under Section 4(1) of the Act has lapsed in terms of Section 11-A of the Act as the award was not passed within a period of two weeks from the date of issue of declaration under Section 6 of the Act.

This Court while admitting the writ petition gave liberty to the petitioners to serve notice on the respondents. After receiving the notice, the respondents have produced the relevant file from the office of the Mandal Revenue Officer, Kajuluru Mandal in support of the contention that the possession was taken on 19.02.2004, and therefore, under Section 11-A of the Act, the land acquisition proceedings are not lapsed. A perusal of the file would show that at page 213, possession taken certificate is found. At pages 215 to 217, the willingness of the petitioners to take possession is also found. Therefore, applying the ratio in **Satendra Prasad v State of Uttar Pradesh**[1], this Court holds that mere non-passing of award is not fatal to the proceedings as possession is already taken. This Court, however, observes that the respondents should immediately pass award taking into consideration that the possession was already taken in February, 2004.

The writ petition is accordingly disposed of. No costs.

(V.V.S.RAO,J)

13.10.2006.
pln

[1] (1993) 4 SCC 369 = AIR 1993 SC 2517